IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 20690 of 2007(K)

PETITIONER:

1. MARTIN B.MUNDADAN,
   S/O.LATE BABY MUNDADAN, MUNDADAN HOUSE,
   ANGAMALY.

2. AUGUSTINE B.MUNDADAN,
   S/O.LATE BABY MUNDADAN, MUNDADAN HOUSE,
   ANGAMALY.

BY ADV. SRI.V.GIRI

RESPONDENTS:

1. TAHSILDAR, ALUVA.

2. VILLAGE OFFICER, VILLAGE OFFICE,
   ANGAMALY.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.20690 of 2007

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Dated this the 5th day of July, 2007

J U D G M E N T

The petitioners challenge Exts.P5 and P6 notices by which they have been directed to vacate the properties mentioned therein, within 3 days. The contention of the petitioners is that Exts.5 and P6 were not preceded by any notice or hearing as contemplated under the Kerala Land Conservancy Act and Rules, and therefore, the same are vitiated by non compliance of the principles of natural justice.

2. I have heard the learned Government Pleader also.

3. The learned Government Pleader was not able to satisfy me that Exts.P5 and P6 notices were preceded by any notice or hearing. Exts.P5 and P6 do not contain any reason as to why emergency provisions under the Kerala Land Conservancy Act and Rules should be invoked. That being so, it is clear that Exts.P5 and P6 have been passed in

violation of the principles of natural justice and against the provisions of the Kerala Land Conservancy Act and Rules. However, if Exts.P5 and P6 are treated as show-cause notices, it may not be necessary to quash the same. Accordingly, I direct the 1st respondent to consider Exts.P5 and P6 as show cause notices. The petitioners shall file their objections to the same within one week from today. Thereafter, the 1st respondent shall afford an opportunity of being heard to the petitioners, which shall include opportunity to adduce evidence. The 1st respondent shall consider the contentions of the petitioners in the light of the evidence to be adduced by the petitioners and pass a speaking order meeting the contentions of the petitioners. Till orders are passed as above and communicated to the petitioners, the petitioners shall not be evicted from the land in question.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.